THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4740 of 2006

23.8.2007

Between:
Mantripragada Subba Rao, S/o.late Appa Rao

…Petitioner

And

The Additional Agent to Government and Project Officer,
ITDA, Paderu, Visakhapatnam District
And another

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4740 of 2006

ORDER:

Petitioner and his brother, Venkatarao, constituted Hindu Joint Family owning agricultural land admeasuring about Acs.5.16 in survey Nos.188/2-A and 188/3-C situated at Adyakula village of Koyyuru Mandal in Visakhapatnam District. In 1960, in a joint family partition, this land fell to the share of the petitioner. Second respondent initiated action under Section 3(2)(a) of Andhra Pradesh Scheduled Area Land Transfer Regulation, 1959, as amended by Regulation I of 1970 (hereafter called, the Regulation) and issued show cause notice under Rule 7(2) of Andhra Pradesh Scheduled Area Land Transfer Rules, 1969. Petitioner appeared before second respondent and gave deposition *inter alia* stating that the subject land devolved on him, that he is in occupation of the land and that the land was registered in his favour vide registered document dated 03.5.1972. Second respondent rejected defense of the petitioner and passed LTR No.146 of 2002 dated 20.8.2002 ordering ejectment of petitioner and assignment of the land for eligible poor tribals of the village. Petitioner then preferred appeal in ACMA No.26 of 2002 before the first respondent. He was unsuccessful thereto. Therefore he filed instant writ petition for a writ of Mandamus seeking to set aside the order of first respondent confirming the order of second respondent.

A counter affidavit is filed opposing the writ petition. It is stated that by virtue of orders of the Government in G.O.Ms.No.193, dated 17.4.2002, Project Officer-cum-Additional Agent to Government is competent to dispose of the appeal filed under Section 3(3)(a)(ii) of the Regulation and that as the petitioner is in possession of the land in

contravention of the Regulation, impugned orders are passed.

Learned Counsel for petitioner submits that impugned orders are unsustainable as no reasons are disclosed for such dismissal. The submission cannot be accepted. Before the original authority, petitioner himself gave statement admitting that the land was registered in 1972 vide document No.1675, dated 03.5.1972. Therefore, he was ordered to be evicted. The appellate authority also considered this aspect of the matter and came to the conclusion that the petitioner was in occupation of the land in contravention of the provisions of the Regulation. A reading of Section 3(1)(a) of the Regulation would show that any transfer of immovable property situated in agency tracts by any person is null and void unless such transfer is made in favour of a person belonging to scheduled tribe. In this case, sale in favour of the petitioner was subsequent to coming into force of Regulation I of 1970, with effect from 03.2.1970. Therefore, it is *ex facie* void. This Court does not find any infirmity in the order passed by the first respondent.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

August 23, 2007
YS